



BOARD MEETING AGENDA SUBMITTAL

TO: GCSB Board of Directors

FROM: Peter Kampa, General Manager

DATE: September 14, 2021

SUBJECT: Agenda Item 6B: Adoption of a Resolution Approving an Agreement with NBS to Facilitate the Process of Annexation of Properties into the Community Facilities District 2021-1, Public Services

RECOMMENDED ACTION:

I move to approve Resolution 27-2021 an agreement with NBS to facilitate the process of annexation of properties into the Community Facilities District 2021-01, Public Services.

BACKGROUND:

NBS provided the technical expertise and analysis in the creation and implementation of the Community Facilities District 2021-1 (public services) formed to provide funding from new development projects for park and fire services. New development projects will be submitting documentation to “annex” into the CFD and be subject to its special tax. Engaging a consultant to prepare the necessary annexation documents assures that the process is correctly applied and documented; resulting in the correct levy of taxes as anticipated by the Board through the CFD.

In addition, the preparation of the annual tax rolls, special tax report and other legally required documentation is necessary according to a strict schedule. NBS is familiar with this process and has submitted a simple, competent scope of work and reasonable fee for administering the CFD annexation process as well as all aspects of the tax roll preparation.

Please note that the cost charged by NBS for the annexation process will be passed along for reimbursement to the District by the annexing party.

ATTACHMENTS:

Resolution 27-2021

FISCAL IMPACT:

Annexation fees charged by NBS are reimbursed by the annexing party. The direct annual expenses anticipated for administrative services as detailed in the proposal are:

Annual Base Fee.....	\$ 4,000
Annual Per Parcel Fee.....	\$1.00 per Parcel
Estimated Expenses (1).....	\$ 500

RESOLUTION 26-2021

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT APPROVING THE AGREEMENT WITH NBS TO FACILITATE THE PROCESS OF ANNEXATION OF PROPERTIES INTO THE COMMUNITY FACILITIES DISTRICT 2021-1, PUBLIC SERVICES

WHEREAS, the Groveland Community Services District (herein referred to as District) is a local government agency formed and operating in accordance with Section §61000 et seq. of the California Government Code; and

WHEREAS, NBS prepared the Fiscal Impact Analysis, Local Goals and Policies for Community Facilities District formation, and documents related to the creation and adoption of Community Facilities District 2021-1 (Public Services) to fund a portion of the cost of providing park and fire services in the District; and

WHEREAS, the process of annexation of properties into the CFD 2021-1 requires certain technical and financial determinations and calculations, as well as the preparation of a Rate and Method of Apportionment for the tax levy; and

WHEREAS, processing of CFD annexation documentation, preparation of tax rolls and special tax reports are most effectively and accurately completed by specialized independent consultants; and

WHEREAS, the District has secured a scope of work and cost proposal from NBS meeting the needs and budget of the District for the administration of the CFD 2021-1.

NOW THEREFORE BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT DOES HEREBY adopts Resolution 26-2021 approving the Agreement with NBS to facilitate the process of annexation of properties into the Community Facilities District 2021-01, Public Services.

WHEREFORE, this Resolution is passed and adopted by the Board of Directors of the Groveland Community Services District on September 14, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Rachel Pearlman, Board Secretary

Janice Kwiatkowski, President - Board of Directors

CERTIFICATE OF SECRETARY

I, Rachel Pearlman, the duly appointed and acting Secretary of the Board of Directors of the Groveland Community Services District, do hereby declare that the foregoing Resolution was duly passed and adopted at a Regular Meeting of the Board of Directors of the Groveland Community Services District, duly called and held on September 14, 2021.

DATED: _____

CONTRACT FOR PROFESSIONAL SERVICES

This Contract is made this 14th day of September, 2021 by and between Groveland Community Services District, a special district organized under the laws of California (hereinafter called "District") and NBS hereinafter called "Consultant."

1. THE CONTRACT

This Contract consists of: (1) the general terms and conditions contained herein, and (3) the Exhibits attached hereto, as Exhibits A through C inclusive. The District has furnished the Consultant with the general program and requirements of Consultant's services and the Consultant acknowledges being informed as to the nature and extent of the services required. It is expressly understood between the parties that the District is relying on and looking to the Consultant for performing and establishing the specific and technical requirements of the professional services described below, except where otherwise provided.

2. THE PROFESSIONAL SERVICES

Consultant shall execute the following professional services specified in Exhibit A (Scope of Work) attached hereto and incorporated herein by reference.

3. COMPENSATION FOR SERVICES

Consultant shall receive compensation for performance of the professional services in the amount, and at the times specified, in Exhibit B (Compensation) attached hereto and incorporated herein by reference.

4. CONSULTANT'S RESPONSIBILITIES

A. The Consultant shall perform those services specified in Exhibit A (Scope of Work) and any such additional services as may be authorized in accordance with Article 6 hereof.

B. Consultant enters into this Contract, and will remain through the term of this Contract, as an independent contractor. Consultant agrees that Consultant is not and will not become an employee of the District while this Contract is in effect. Consultant is not entitled to the rights or benefits afforded to the District's employees, including but not limited to disability or unemployment insurance, worker's compensation, medical insurance, sick leave or other employment benefits. Consultant is responsible for providing at Consultant's own expense disability, unemployment, and other insurance, workers' compensation (as set forth below), training, permits, and licenses for Consultant and for Consultant's employees and subcontractors. The Consultant shall be responsible for methods and means used in performing the Consultant's services under this Contract.

C. In the event the Consultant's services are related to a particular project, the Consultant's services shall be performed in a manner, sequence and timing so that they will be coordinated with the needs of the District and other consultants, engineers, architects or contractors for the project. The District shall be the general administrator of the professional services for the project and shall facilitate the exchange of information amongst the consultants, engineers, architects or contractors retained by the District for the project as necessary for the coordination of the project. Except as authorized by the District, all communications between the Consultants and the District or others for the project shall be through the District.

D. The Consultant shall provide progress copies of drawings, reports, specifications and other necessary information to the District and other contracted consultants for coordination and review. All aspects of the project designed by the Consultant shall be coordinated by the Consultant, and the Consultant shall also become familiar with aspects of the project designed by the engineers and/or contracted consultants as necessary for the proper coordination of the project.

E. Consultant may, at Consultant's own expense, use any employees or subconsultants as Consultant deems necessary to perform the services required of Consultant by this Contract. The District shall not control, direct or supervise Consultant's employees or subconsultants in the performance of those services.

F. Consultant agrees that all designs, plans reports, specifications, drawings, inventions, processes and other information or documents produced by Consultant as a product of the performance of Consultant's services under this Contract will be and are hereby assigned to the District as the sole and exclusive property of the District and the District's assigns, nominees and successors, as well as any copyrights, patents, or trademarks obtained by Consultant in connection with the performance of services under this Contract.

G. Any written, printed, graphic, electronically or magnetically recorded information furnished by the District for Consultant's use are the sole property of the District. All such information shall be proprietary, including, but not limited to customer requirements, customer lists, marketing information and information regarding the project, the District's employees, products, services, prices, operations and subsidiaries. Consultant will keep such proprietary information in the strictest confidence, and will not disclose it by any means to any person except with the District's approval or except as required by law. On termination of the Contract, Consultant will return any proprietary information in Consultant's possession to the District.

H. Consultant agrees to indemnify and hold harmless the District, the members of its governing board and its officers, agents and employees from and against all demand, claims, damages, losses, liabilities, expenses and/or costs including reasonable attorney's fees and court costs, arising out of Consultant's willful misconduct, or negligent or reckless acts, errors, or omissions of services contemplated by this Contract, except however, for any such demands, claims, damages, losses liabilities, expenses and/or costs resulting from the willful misconduct, reckless acts, errors or omissions, or negligence of the District and/or its prorata share of negligence.

5. DISTRICT'S RESPONSIBILITIES

A. If the Consultant's services are related to a particular project, the District shall, with reasonable promptness, provide available information regarding the requirements for the project, including any existing or proposed plans and specifications and any requirements of public or quasi-public governmental agencies of which the District is aware.

B. The District may designate a representative authorized to act on the District's behalf with respect to the Consultant's services and, if applicable, the project. The District or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the consultant in order to avoid unreasonable delay in the orderly and sequential progress of the Consultant's services.

6. TERMINATION, SUSPENSION OR ABANDONMENT

A. Notwithstanding any other provision of this Contract, this Contract may be terminated by either party at any time by giving thirty (30) days written notice to the other party. In the event of such termination, Consultant shall be compensated hereunder for the value of services performed to the date of termination. In the event of such termination without cause, the District shall not be entitled to rely upon, nor shall Consultant have any liability arising out of the District's use of incomplete designs, plans, reports, specifications, drawings, or other uncompleted tasks.

B. This Contract may be terminated by either party upon not less than seven (7) days written notice should the other party fail to substantially perform in accordance with the terms of this Contract through no fault of the party initiating the termination. For purposes of this subparagraph, the failure to substantially perform in accordance with this Contract includes, but is not limited to, the following:

(1) The District's failure to pay Consultant any compensation due within sixty (60) days after written demand for payment.

(2) Consultant's failure to competently complete the services specified under this Contract within the time periods specified herein or as reasonably directed by the District.

(3) Consultant's or the District's material breach of any representation or agreement contained herein.

(4) Failure of consultant to maintain insurance coverage as required in Section 7.

(5) Consultant may also withdraw from this Contract upon seven (7) days written notice in the event of the District's refusal to cooperate with Consultant or to follow Consultant's advice on any material matter, or the occurrence of any fact or circumstance that would render Consultant's services unlawful or unethical.

(6) In the event of any such termination, Consultant shall be compensated hereunder for the value of services performed to the date of termination.

7. INSURANCE COVERAGE

A. Consultant shall maintain insurance covering claims arising out of the performance of professional services under this Contract and caused by the errors, omissions or negligent acts for which the Consultant is liable, in an amount of no less than \$1,000,000 per occurrence. Additional coverage or terms may be required for Consultant's services related to a particular project.

B. The Consultant shall carry the following additional insurance:

C. General Liability Insurance, which insurance shall have limits of liability not less than the following:

Bodily Injury:	\$1,000,000 each occurrence \$1,000,000 each person \$2,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence \$2,000,000 aggregate

Consultant shall furnish the District, upon request, with (1) a certificate of insurance countersigned by an authorized agent or representative of the insurance company, that the insurance policies will not be cancelled, altered or reduced without thirty (30) days prior written notice to the District and that the policy or policies do not exclude coverage for contractual liability, and (2) an endorsement to the General Liability Policy, in the form of CG2010, or such other form reasonably acceptable to the District, confirming that the District and/or any of the affiliates and additional entities of the District that the District may designate, are named as additional insured on such policies. In the event of cancellation for non-payment, the District may pay premiums due by Consultant and deduct the paid payment from amounts then or subsequently owing to the Consultant hereunder. Insurance limits called for herein shall be considered to be minimum and the District shall have the absolute discretion to require higher limits should the nature of the work and risks involved therein call for such higher limits.

8. SAFETY

A. Consultant shall strictly observe and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or properties or their protection from damage, injury or loss. Without limiting the foregoing, Consultant shall comply with requirements, regulations, orders and directives promulgated under the Federal Occupational Safety and Health Act, the California Occupational Safety and Health Act, and the California Safe Drinking Water and Toxic Enforcement Act of 1986.

B. Consultant shall be liable to the District for all loss, cost and expense attributable to any acts of commission or omission by the Consultant, or its employees or agents resulting from the failure to use reasonable safety precautions and programs or to comply with safety laws, regulations or ordinances, including but not limited to any fines, penalties or corrective measures.

9. PAYMENT PROVISIONS

A. Unless otherwise specified in Exhibit B, the Consultant shall render monthly invoices in duplicate covering work completed in such month. Invoices received by the tenth (10th) of the month and approved for payment shall be paid within thirty (30) days.

B. Additional services, beyond the services listed in Exhibit A, may be required by the District. Such additional services shall be performed only in accordance with Change Orders, authorized and issued by the District or the District's designated representative. Each Change Order shall list the scope of revisions to be performed, state the time within which the work is to be completed, designate any special conditions, and state the agreed upon compensation for such services.

10. MISCELLANEOUS PROVISIONS

A. This Contract represents the entire and integrated agreement for the services between the District and Consultant and may be amended only by written instrument signed by both the District and Consultant.

B. Any notices required to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested, by facsimile, or by any nationally recognized overnight service. Notices must be addressed to the parties at the addresses indicated on this Contract, but each party may change the address by giving written notice in accordance with this paragraph. Notices personally delivered will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of the date of receipt or the fifth day after mailing, whichever occurs first. Notices sent by overnight services or facsimile shall be deemed communicated as of the earlier of the date of receipt or twenty-four (24) hours after mailing.

C. If any provision of this Contract is held by a court of a competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

D. This Contract shall be binding upon the executors, administrators, heirs, successors and assigns of the District and the Consultant.

E. If any legal action or arbitration is instituted, including an action for declaratory relief to enforce or interpret the provisions of the Contract, the prevailing party will be entitled to reasonable attorney's and expert fees, which may be set by the court in such action or arbitration,

or in a separate action brought for that purpose, in addition to any other relief to which that party may be awarded.

F. This Contract will be governed by and construed in accordance with the laws of the State of California.

G. In the event that either the District or the Consultant shall at any time waive any breach of this Contract by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Contract, whether of the same or any other covenant, condition, or obligation.

H. If any term, condition or covenant of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Contract shall be valid and binding on District and Consultant.

I. If the scope of services includes Consultant's assistance in applying for governmental permits or approvals, Consultant's assistance shall not constitute a representation, warranty or guarantee that such permits or approvals will be acted upon favorably by any governmental agency.

District Signature:

Consultant Signature:

Groveland Community Services District
18966 Ferretti Rd.
Groveland, CA 95321
Mailing Address:
P.O. Box 350
Groveland, CA 95321-0350

NBS
870 Market Street, Suite 1223
San Francisco, CA 94102

Exhibit A

Scope of Work

1. Retention of Consultant. District hereby retains Consultant to perform the duties identified in this Exhibit A, for District on the terms and conditions specified in the "Contract for Professional Services".

2. Duties to be Performed. Consultant shall provide:

Assistance and administrative guidance and documentation of the process of annexation of properties to the CFD 2021-1 and preparation of related tax rolls and documentation as detailed in the NBS Proposal included as Exhibit C.

EXHIBIT B

COMPENSATION FOR SERVICES

Non-Bonded Community Facilities District Annexation Services

Consulting Fee (1)	\$ 3,000 per Annexation
Estimated Expenses (2)	\$ 350
Total Not to Exceed (per Annexation)	\$ 3,350
(1) Assumes landowner unanimous approval with waivers	
(2) See description of expenses below	

Community Facilities District Administration Services

Annual Base Fee	\$ 4,000
Annual Per Parcel Fee	\$1.00 per Parcel
Estimated Expenses (1)	\$ 500
(1) See description of expenses below	

EXPENSES

Customary out-of-pocket expenses will be billed to the CSD at actual cost to NBS. These expenses may include, but not be limited to, mailing fulfillment, postage, reproduction, telephone, travel, meals and various third-party charges for data, maps, and recording fees.

ANNUAL FEE INCREASES

Cost of living increases may be applied to the Administration services listed above on October 1 each year, beginning with the invoices issued on October 1, 2022. The COLA would be the actual cost of living increase based on the 12-month change from May to May in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all urban consumers for the applicable region for the CSD’s location.

ADDITIONAL SERVICES

The following table shows our current hourly rates. Additional services authorized by the CSD but not included in the scope of services will be billed at this rate or the then applicable hourly rate.

Title	Hourly Rate
Director	\$225
Associate Director / Engineer	\$210
Senior Consultant / Manager	\$175
Consultant	\$155
Analyst	\$130
Clerical/Support	\$105

EXHIBIT C

CONSULTANT SCOPE OF SERVICES

Non-Bonded Community Facilities District Annexation Services with Landowner Vote via Unanimous Approval Form in Future Annexation Area

KICK-OFF MEETING, PROJECT SCHEDULE

NBS will meet with CSD staff, legal counsel, and other interested parties to:

- Establish lines of communication
- Clarify the specific project goals and criteria that will meet the CSD's preference
- Identify and resolve any special circumstances regarding the annexation of property to the CFD
- Develop project schedules to meet legal requirements and provide for effective interaction of all involved parties
- Establish meeting dates consistent with schedule to achieve project milestones

LOCAL GOALS & POLICIES

NBS will review existing local goals and policies or assist the CSD in developing local goals and policies for the use of CFDs, as required by the Mello-Roos Community Facilities Act of 1982 (the "Act").

DATA COLLECTION

NBS will gather and review data relevant to the annexation of property to the CFD. Data will be obtained from various sources, including CSD records, Assessor's parcel maps, and County Assessor information.

COST ESTIMATE

NBS will review the property and proposed project to determine if a new Tax Zone is required.

RATE AND METHOD OF APPORTIONMENT

NBS will review the CFD Rate and Method of Apportionment as it relates to the property to be annexed to the CFD.

UNANIMOUS APPROVAL FORM

NBS will prepare and mail the unanimous approval form to all landowner electors within the territory of the proposed annexation to the CFD. Final form of the unanimous approval will be approved by CSD staff and legal counsel.

ADDITIONAL CFD DOCUMENTS

NBS will prepare the Notice of Special Tax Lien in compliance with the Act. Final form of the Notice of Special Tax Lien will be approved by CSD staff and legal counsel.

Community Facilities District Administration (Non-Bonded)

DATA COLLECTION

NBS will gather and review data pertinent to the administration of the Community Facilities District (CFD). Data will be obtained from various sources such as assessor's parcel maps, building permits and county assessor information as determined to be necessary based on the requirements of the Rate and Method of Apportionment. NBS will maintain and periodically update a database of all parcels within the CFDs and relevant parcel information.

ADMINISTRATIVE COST RECOVERY

NBS will assist the CSD in identifying all costs associated with the administration of the CFD and recover those costs through the levy process as outlined in §53317(e) and §53340 of the Government Code of the State of California. Such costs may include, but are not to be limited to: bank fees, legal fees, county tax collection fees, and costs and expenses of the CSD and its consultants related to administration of the CFD.

SPECIAL TAX REQUIREMENT

NBS will calculate the annual Special Tax Requirement that will include all necessary components as outlined in the Rate and Method of Apportionment, such as funds necessary for authorized services and maintenance, administrative expenses, collection costs for direct financing of services or facilities, and credits as determined from the analysis of the CFD funds.

LEVY CALCULATION

NBS will calculate the annual special tax levy for each parcel within the CFD following the guidelines established in the Rate and Method of Apportionment.

LEVY SUBMITTAL

NBS will submit the levy to the County Auditor-Controller in the required format by the County's deadline. Special Taxes rejected by the County Auditor-Controller will be researched and resubmitted for collection on the County Tax Roll. Any parcels that are not accepted by the County for collection will be invoiced directly to the parcel owner, with payment to be directed to the CSD.

SPECIAL TAX LEVY REPORT

NBS will provide an annual Special Tax Levy Report. This report will include a parcel listing with levy amounts and other parcel information, the details of the annual Special Tax Requirement, fund analysis, administrative expenses to be recovered, and status of the project and current issues affecting the CFD.

ADDITIONAL REPORTING

NBS will be a resource to the CSD by staying current and identifying any new legislation and reporting requirements as they relate to the CFD.

For each of the following reporting requirements, NBS will review all pertinent documents and obtain the information needed to:

- Prepare the required reporting to the California State Controller’s Office California Government Code, Section 12463.2, enacted as part of AB 2109. Provide to CSD staff for inclusion in the annual financial transaction report.
- Assist in the filing of the SB 165 report to the Board of Directors each year to comply with legislation that enforces additional reporting requirements. California Government Code, Sections 50075.3 or 53411.
- Prepare other reports as required by any State and/or Federal disclosure reporting requirements pertaining to each CFD, as applicable, amended, or newly enacted and required. This may be subject to additional fee.

NOTICE OF SPECIAL TAX DISCLOSURE

NBS will provide Notice of Special Tax Disclosure notices to requesting parties as required by §53340.2 and §53341.5 of the Government Code of the State of California. The fee of any Notice of Special Tax shall be billed to the party requesting the disclosure form.

CONSULTING SUPPORT

NBS will provide a toll-free phone number for use by the CSD, other interested parties and property owners. Our staff will be available to answer questions regarding the CFD and ongoing collection of the special tax. Bilingual staff is available for Spanish-speaking property owners.

CSD’S RESPONSIBILITIES

The CSD shall furnish NBS with any pertinent information that is available to the CSD and applicable to the Services. The CSD shall designate a person to act with authority on its behalf in respect to the Services. The CSD shall promptly respond to NBS’ requests for reviews and approvals of its work, and to its requests for decisions related to the Services. The CSD understands and agrees that NBS is entitled to rely on all information, data and documents (collectively, “Information”) supplied to NBS by the CSD or any of its agents, contractors or proxies or obtained by NBS from other usual and customary sources including other government sources or proxies as being accurate and correct and NBS will have no obligation to confirm that such Information is correct and that NBS will have no liability to the CSD or any third party if such Information is not correct.

TERMS

Annexation Consulting services will be invoiced monthly. Administration services will be invoiced at the beginning of each quarter. Expenses will be itemized and included in the next regular invoice. Fees for all other services will be invoiced upon completion of the task. If the project is prematurely terminated by either party, NBS shall receive payment for work completed. Payment shall be made within 30 days of submittal of an invoice. If payment is not received within 90 days simple interest will begin to accrue at the rate of 1.5% per month. Either party may cancel this contract with 30 days written notice.